The Commission asks whether it has the authority to require separation through or to prescribe the "decoder interface connector". Given how the decoder interface is currently configured, such a requirement would clearly violate the Eshoo amendment. The debate over this provision of the Act pertained almost solely to the CEBus portion of the decoder interface. The inclusion of this provision in the conference report is clearly a bar to adoption of the interface as long as it includes CEBus. The reference to the House report is not really applicable, because the conference committee adopted a revised version of the House proposal and not the provision contained in the House committee bill.

In any event, it is unlikely that any effort to prescribe the decoder interface would have any effect on the commercial availability of any navigation devices. The decoder interface would only become available during the very twilight of analog technology. Given that cable systems have deployed analog technology for over forty years, it is hard to fathom what would be the market for this device. Marketplace solutions already exist for three of the problems raised by the cable television/consumer electronics equipment compatibility or Leahy amendment: the problem of watch a program on one channel while recording on another is solved by Tape n' View™ or Watch and Record™ products; the problem of record two consecutive programs on different channels is solved by the VCR Plus™ product and VCR/set-top terminal timer features; and the problem of using advanced television picture and display features is solved by baseband output from the set-top terminal. What is the unsolved cable television/consumer electronics equipment compatibility problem that would be addressed by the decoder interface?

The Notice concludes that "to facilitate the connection of the unbundled security equipment to commercially available CPE some form of standard interface or publication of interface specifications would appear to be necessary."[17] For digital technology and services, the cable industry has already substantially complied with this requirement. As was previously discussed, a requirement or mandate to separate out security would run afoul of the statutory proviso that security not be jeopardized. Compliance for analog devices is not practically achievable, because of the numerous different types of security and the fact that security is generally embedded in the hardware. As was previously noted, any effort to prescribe a decoder interface standard or requirement containing CeBUS would be in direct conflict with the Eshoo amendment. Prospective relief in the analog domain is possible, but it is of questionable effectiveness and relevance in the world that will soon be moving rapidly towards digital technologies and services.

Multichannel Video Programming Without Subsidies

The Commission fairly accurately outlines the issues involved in subsidies and bundling. Bundling should be properly viewed as a gradual capture of the equipment's cost through increased programming or service revenue and the bundling restrictions should be construed narrowly.

Much of the original concern about converters involved the practice of cable operators charging high rates for the converter and requiring them as part of the service. Many subscribers or consumers saw little value added on the part of the converter and believed that they were being forced to obtain the converter at an exorbitant charge. The 1992 Cable Act limited the rates which cable operators could charge the subscriber to cost

[17] See *Notice* at ¶ 72.

plus a rate of return. In the interim, converters or set-tops have been developed with many new features and functions. Increasingly, consumers are satisfied with the role of the set-top or converter, because they want and desire the new services and technologies which this device brings into the home. Overall customer satisfaction with set-tops is much higher today than it was when the 1992 Cable Act was enacted.

Developmental Waivers

The Commission should liberally interpret the provision providing for waivers for new services and equipment. The Commission correctly notes the very high value the Act places on technical and service innovation and that waivers should be looked on sympathetically and expansively.

Sunset of Regulations

The Commission correctly concludes that it should adopt a flexible approach with respect to the sunset of particular regulations over time. It should also be willing to use its authority for regulatory forbearance.

Right to Attach

The Notice recognizes the right to attach as the core prerequisite for consumers to have the opportunity to obtain equipment from retail outlets. The Commission addresses the technical issues involved in according such a right to consumers. With respect to signal ingress, the Commission notes that there has been no significant problem with the attachment of televisions and VCRs. As stated in the Notice the signal ingress problems are worsened when two-way capability is introduced and are exacerbated by the "trec and

branch" design of cable systems, in contrast to the "star" design of telephone customers with separate links to the telephone company switching gear. Thus, in the telephone network, any signal ingress has a much greater likelihood of being limited to the customer's dedicated line back to the telephone company switching center. In a cable system, signal ingress, leakage or interference is more likely to interfere with the signals and connections of neighbors and many other people using the cable network. Scientific-Atlanta supports the Commission's conclusion that, should such a right be granted, network service providers must have the ability to establish and enforce their own standards on what can be attached to the system, subject, of course, to the consumer's right to attach. We specifically oppose any effort to impose or expand a Part 68 regime. With respect to signal leakage, we support the use of Part 15 certification rules to address these issues.

Performance Criteria

The Commission asks whether setting performance criteria that must be met by a date certain would be a viable methodology rather than actual government standard setting. Performance criteria should not become an euphemism for government standards. For example, making an MVPD's ability to sell or lease equipment contingent on equipment serving the same functions being commercially available after a date certain through retail outlets could potentially be a more intrusive form of government regulation than the setting of a standard.

The Commission asks whether performance criteria should be applied to cable modems and tentatively concludes that such a rule would suffice with respect to these

modems. Cable modems are the type of device that is likely to be readily available through retail outlets. FCC performance criteria, however, could potentially interfere with innovation and the marketplace and may, paradoxically, slow this process down. Scientific-Atlanta would not be opposed to such performance criteria, if these criteria reflect what is already happening in the marketplace and are carefully crafted to reduce the possibility of harming marketplace innovation.

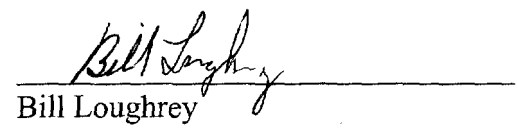
Proprietary Technology.

The issue of proprietary technology is in many respects a red herring. The real issue is whether the architecture of a system is open or closed. Scientific-Atlanta favors an open architecture approach. However, in a world that is increasingly interactive, closed systems will probably have little, if any role. Government should not be involved in the licensing of proprietary technology, including commercial patents and copyrights. Specifically, ordering a manufacturer to license its proprietary security system to others is a particularly bad idea. Not only would such an approach jeopardize security, which is specifically barred by the statute, it would leave unclear responsibility for breaches in security and potentially result in major litigation.

As was noted previously, licensing of technology is already taking place in the cable industry. Not only are manufacturers licensing their technology to other manufacturers, they are cross-licensing with each other. Scientific-Atlanta has licensed its technology to Toshiba and Pioneer and is entering into a cross-licensing agreement with General Instrument. Companies which do not license their technology where appropriate do so at their own risk, as Apple Computer discovered.

Respectfully submitted,

SCIENTIFIC-ATLANTA, INC.



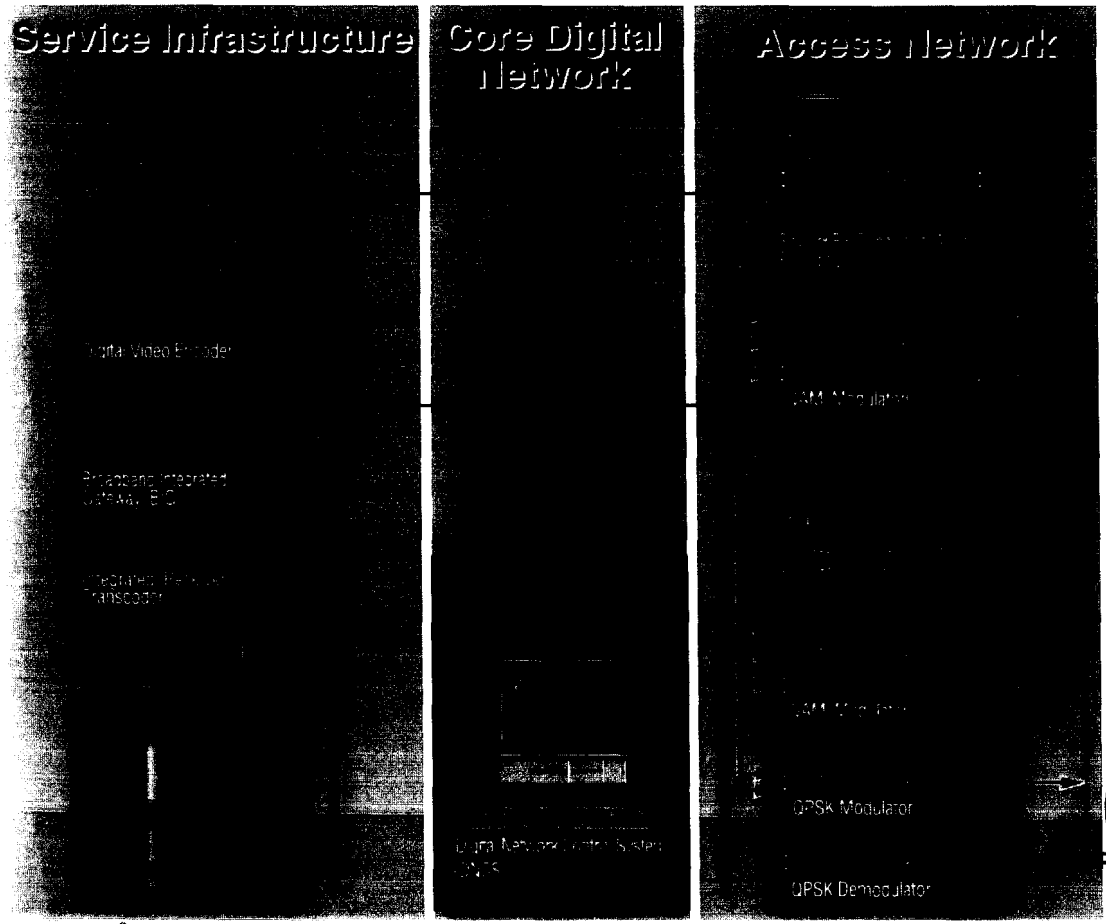
Bill Loughrey
Director of Government Affairs
Corporate Communications Department
Scientific-Atlanta, Inc.
One Technology Parkway, South
Norcross, GA 30092-2967
(770) 903-4629

May 16, 1997

Open Standards Partnering Program

Non-Proprietary Core Technologies and Proven System Compatibility

Scientific Atlanta



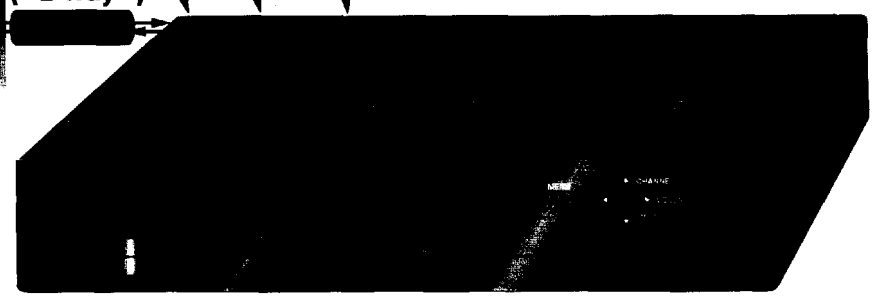
Sources

PowerKEY™ Conditional Access on Secure Micro or Smart Card — Scientific-Atlanta (Core Encryption Algorithms Available from Third Parties)

PowerTV™ Operating System and Eagle™ Graphic/Audio ASIC — Scientific-Atlanta or PowerTV, Inc.

DAVIC 1.1, MPEG-2, and CableLabs Compliant ASICs — Scientific-Atlanta or Directly from ASIC Manufacturers

HFC Link (Real-Time 2-Way)



PowerKEY™ Conditional Access

Network Interface with PowerTV™ Operating System

DAVIC 1.1, MPEG-2, and/or CableLabs Compliant

* Analog scrambling "optional"

** All headend products available from Scientific-Atlanta except Digital Server, Internet Gateway, and Digital Network

DAVIC 1.1, MPEG-2 and CableLabs compliant digital headend supplied by Scientific-Atlanta.

Digital set-top or cable modem designed and produced by manufacturer with Scientific-Atlanta documentation and technical support.

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